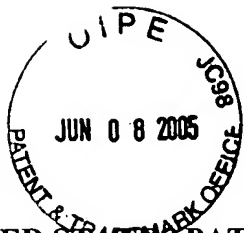


Docket No.: 062807-0175



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|-----------------------------|---|---------------------------|
| In re Application of | : | Customer Number: 20277 |
| Kazutoshi KAJI, et al. | : | Confirmation Number: 3682 |
| Application No.: 10/807,116 | : | Group Art Unit: 2881 |
| Filed: March 24, 2004 | : | Allowed: April 5, 2005 |
| | : | Examiner: N. Wells |
| For: ELECTRON MICROSCOPE | : | |

**COMMENTS RESPONSIVE TO STATEMENT OF
REASONS FOR ALLOWANCE
UNDER 37 C.F.R. § 104(e)**

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The April 5, 2005 Notice of Allowability regarding the above-identified application included a Statement of Reasons for Allowance. Entry of that Statement into the record should not be construed as any agreement with or acquiescence by Applicants in the stated reasoning.

With regard to claim 1, the Statement substantially repeats the verbiage of the claim. Since the language of the claim is clear and already in the record, repetition in the Statement adds nothing substantive to the record. Also, the Statement refers to "the newly amended independent claim 1" as overcoming the rejection. This wording of the Statement should not be used to infer that the amendment to the claim narrowed the scope thereof to distinguish over the applied patent. To the contrary, the only changes in the claim language were to change "the" to "a" and to change "at most" to "no more than." Neither of these changes narrowed the scope of the claim or served to distinguish over the applied patent.

The Statement includes claims 2 and 4 in a single "reason," but the stated reason does not track the language of either of these two claims. The language of each claim controls its patentability. Each claim should be independently patentable in view of the different language

Application No.: 10/807,116

of each claim. Also, the Statement refers to "the newly amended independent claims 2 and 4" as overcoming the rejection. This wording of the Statement should not be used to infer that the amendment to either of these claims narrowed the scope thereof to distinguish over the cited publication document. It is respectfully submitted that the changes to claims 2 and 4 at most improved clarity, but the amendments did no narrow the scope of either those claims or serve to distinguish over the applied publication document.

It is respectfully submitted that the allowed claims should be entitled the broadest reasonable interpretation and broadest range of equivalents that are appropriate in light of the language of the claims, the supporting disclosure and Applicant's prosecution of the claims, without reference to the Statement of Reasons for Allowance.

To the extent necessary, if any, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Keith E. George
Registration No. 34,111

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 KEG:MWE
Facsimile: 202.756.8087
Date: June 8, 2005

**Please recognize our Customer No. 20277
as our correspondence address.**